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| 10/579,677 | 05/18/2006 | Ryo Sasaki | OKI-553 | 5118 |
| 23995 7590 03/02/2010 | | | | |
| RABIN & Berdo, PC 1101 14TH STREET, NW SUITE 500 WASHINGTON, DC 20005 | | | | |
| EXAMINER | | | | |
| NI, SUHAN | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,677

Applicant(s)

SASAKI ET AL.

Examiner

Suhan Ni

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Election/Restriction

1. This communication is responsive to the provisional election made without traverse on 12/11/2009 to prosecute the invention of Group I, claims 1-4. Other Groups, including claims 5-6 are withdrawn from further consideration, as being drawn to a non-elected invention. A complete reply to a future final office action must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130 (b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent App. No. 11/918,208. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-8 of U.S. Patent App. No. 11/918,208 are similar in scope to claim 1-4 of the U.S. Pat. App. No. 10/579,677 with obvious wording variations.
3. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent App. No. 11/896,272. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-19 of U.S. Patent App. No. 11/896,272 are similar in scope to claim 1-4 of the U.S. Pat. App. No. 10/579,677 with obvious wording variations.
4. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent App. No. 10/547,177. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-4 of U.S. Patent App. No. 10/547,177 are similar in scope to claim 1-4 of the U.S. Pat. App. No. 10/579,677 with obvious wording variations.
5. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent App. No. 11/165,433. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-28 of U.S. Patent App. No. 11/165,433 are similar in scope to claim 1-4 of the U.S. Pat. App. No. 10/579,677 with obvious wording variations.
6. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent App. No. 11/189,052. Although the conflicting claims are not identical, they are not patentably distinct from each other because

claims 1-17 of U.S. Patent App. No. 11/189,052 are similar in scope to claim 1-4 of the U.S. Pat. App. No. 10/579,677 with obvious wording variations.

Claim Rejections - 35 USC § 112, 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

7. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the limitation of “the latest” in lines 13 is vague since it is not clear what the limitation is.

In claim 1, it recites the limitation of “the latest” in line 13. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 3, the limitation of “the latest” in lines 13 is vague since it is not clear what the limitation is.

In claim 3, it recites the limitation of “the latest” in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buhler et al. (U.S. Pat. – 6,104,704).

Regarding claims 1 and 3, Buhler et al. disclose a voice communication system (Fig. 3) for transferring voice information stored in a protocol data unit under a predetermined communication protocol over a network under the protocol, comprising: an end voice terminal (52, 54) for transferring and receiving the voice information in the protocol data unit; and a management server (22, 56, 58, 59, 60) for managing said end voice terminal, said management server including a manager for storing and managing subscriber information indicative of whether or not said end voice terminal is provided with a capability of predetermined broadband voice communication as claimed. But Buhler et al. may not clearly show that a user being informed, before the user initiates a call from said end voice terminal, of whether or not a telephone set of a called party is provided with the capability of the broadband voice communication through said end voice terminal based on the subscriber information as claimed. Since providing an integrity check/inform is very well known in the art, it therefore would have been obvious to one having ordinary skill in the art at the time the invention was made to be motivated to provide suitable integrity check/inform technique, such as off-the-hook check/inform for the system taught by Buhler et al. as an alternate choice, in order to efficiently and effectively operate the system.

Regarding claims 2 and 4, Buhler et al. may not specially teach an audio source server as claimed. Since Buhler et al. do clearly suggest providing enhancement details (59) and providing a suitable high quality audio source server for a voice communication system is very well known in the art, it therefore would have been obvious to one having ordinary skill in the art at the time the invention was made to be motivated to provide suitable enhancement details, such as an

audio source server for the voice communication system taught by Buhler et al. as an alternate choice as suggested by Buhler et al., in order to provide high quality sound over the voice communication system.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Suhan Ni** whose telephone number is **(571)-272-7505**, and the number for fax machine is **(571)-273-7505**. The examiner can normally be reached on Tuesday and Thursday from 10:00 am to 8:00 pm, and may be reached on Monday, Wednesday and Friday from 10:00 am to 8:00 pm. If it is necessary, the examiner's supervisor, **Curtis A. Kuntz**, can be reached at **(571)-272-7499**.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (**PAIR**) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is **(571)-272-2600**, or please see <http://www.uspto.gov/web/info/2600>.